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JAMES M. STOVER
NCR CORPORATION
1700 SOUTH PATTERSON BLVD, WHQ4
DAYTON, OH 45479

EXAMINER

STRANGE, AARON N

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/752,355
Filing Date: December 29, 2000
Appellant(s): PRICER ET AL.

John D. Cowart
Registration Number 38,415
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 6/5/2005 appealing from the Office
action mailed 11/30/2004.

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(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

US Patent Number 6,026,394 to Tsuchida et al., filed Sep. 4, 1998, and issued Feb. 15, 2000.

US Patent Application Publication Number 2002/0042821 to Muret et al., filed May 10, 2001 and published Apr. 11, 2002.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Muret et al. (US 2002/0042821) in view of Tsuchida et al. (US 6,026,394).

With regard to independent claim 1, Muret et al. disclose a method for use in tracking the actions of an Internet user, comprising: loading data from one or more transaction logs of one or more Internet servers into a database system (log engine) (Page 2, Paragraph 51, Lines 1-2), where the data includes an entry for each request to the Internet server (Page 2, Paragraph 51, Lines 4-6), including information identifying the which user submitted the request (Page 4, Paragraph 71, Lines 7-10) and information identifying the time at which the request was received (Page 3, Paragraph

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55, Lines 1-5); and selecting from the data all entries associated with a particular user and corresponding to a single session of that user (Page 4, Paragraph 71). Muret et al. fails to disclose that the database system comprises plural parallel processing modules or executing a database query across the plural parallel processing modules to select the entries from the data.

Tsuchida et al. teach the use of plural parallel processing modules as a means to decrease the time required to search a database (Col 2, Lines 54-58). Tsuchida discloses a plurality of parallel processing modules including distribution nodes, join nodes, and decision management nodes (Col 2, Line 59 to Col 3, Line 18). These nodes distribute the workload related to the query process, and work on it in parallel to achieve a result faster.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use plural parallel processing modules in the database system to select the entries for a particular user from the data. This would have been advantageous since it would have greatly sped up the process of sorting through the data to select the desired entries.

With regard to claim 2, Muret et al. further disclose that the step of selecting includes selecting entries with time stamps lying in a predetermined range (Page 4, Paragraph 71, Lines 10-13).

With regard to claim 3, Muret et al. further disclose that the step of selecting includes comparing time stamps of entries and selecting each entry for which the time stamp differs from the time stamp of another entry by less than a predetermined amount (Page 4, Paragraph 71, Lines 10-13).

With regard to claim 4, Muret et al. further disclose that the step of selecting includes selecting each entry for which the time stamp differs from the time stamp of another entry by less than 30 minutes (Page 4, Paragraph 71, Lines 10-13).

With regard to claim 5, Muret et al. further disclose sorting the selected entries chronologically to reconstruct the user's clickstream (Page 4, Paragraph 72, Lines 4-5).

With regard to independent claim 6, Muret et al. disclose a computer program for use in tracking the actions of an Internet user, the program comprising executable instructions that cause one or more computers to: load data from one or more transaction logs of one or more Internet servers into a database system (log engine) (Page 2, Paragraph 51, Lines 1-2), where the data includes an entry for each request to the Internet server (Page 2, Paragraph 51, Lines 4-6), including information identifying the which user submitted the request (Page 4, Paragraph 71, Lines 7-10) and information identifying the time at which the request was received (Page 3, Paragraph 55, Lines 1-5); and select all entries associated with a particular user and corresponding to a single session of that user (Page 4, Paragraph 71). Muret et al. fails to disclose that

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the database system comprises plural parallel processing modules or executing a database query across the plural parallel processing modules to select the entries from the data.

Tsuchida et al. teach the use of plural parallel processing modules as a means to decrease the time required to search a database (Col 2, Lines 54-58). Tsuchida discloses a plurality of parallel processing modules including distribution nodes, join nodes, and decision management nodes (Col 2, Line 59 to Col 3, Line 18). These nodes distribute the workload related to the query process, and work on it in parallel to achieve a result faster.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use plural parallel processing modules in the database system to select the entries for a particular user from the data. This would have been advantageous since it would have greatly sped up the process of sorting through the data to select the desired entries.

With regard to claim 7, Muret et al. further disclose that, in selecting entries, the computer selects entries with time stamps lying in a predetermined range (Page 4, Paragraph 71, Lines 10-13).

With regard to claim 8, Muret et al. further disclose that, in selecting entries, the computer compares time stamps of entries and selects each entry for which the time

stamp differs from the time stamp of another entry by less than a predetermined amount (Page 4, Paragraph 71, Lines 10-13).

With regard to claim 9, Muret et al. further disclose that, in selecting entries, the computer selects each entry for which the time stamp differs from the time stamp of another entry by less than 30 minutes (Page 4, Paragraph 71, Lines 10-13).

With regard to claim 10, Muret et al. further disclose that the computer sorts the selected entries chronologically to reconstruct the user's clickstream (Page 4, Paragraph 72, Lines 4-5).

With regard to independent claim 11, Muret et al. disclose a database system comprising: one or more data-storage facilities (database) (Fig 1, 300) for use in storing data received from one or more transaction logs of one or more Internet server computers (Page 1, Paragraph 51), where the data includes an entry for each request to the Internet server computers (Page 2, Paragraph 51, Lines 4-6), including information identifying the which user submitted the request (Page 4, Paragraph 71, Lines 7-10) and information identifying the time at which the request was received (Page 3, Paragraph 55, Lines 1-5); and one or more processing modules configured to manage the data stored in the data storage facilities (log engine) (page 3, Paragraph 57); and a database-management component configured to select from the data all entries associated with a particular user and corresponding to a single session of that

user (Page 4, Paragraph 71). Muret et al. fails to disclose that the database system comprises plural parallel processing modules or executing a database query across the plural parallel processing modules to select the entries from the data.

Tsuchida et al. teach the use of plural parallel processing modules as a means to decrease the time required to search a database (Col 2, Lines 54-58). Tsuchida discloses a plurality of parallel processing modules including distribution nodes, join nodes, and decision management nodes (Col 2, Line 59 to Col 3, Line 18). These nodes distribute the workload related to the query process, and work on it in parallel to achieve a result faster.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use plural parallel processing modules in the database system to select the entries for a particular user from the data. This would have been advantageous since it would have greatly sped up the process of sorting through the data to select the desired entries.

With regard to claim 12, Muret et al. further disclose that the database-management component is configured to select entries with time stamps lying in a predetermined range (Page 4, Paragraph 71, Lines 10-13).

With regard to claim 13, Muret et al. further disclose that the database-management component is configured to compare time stamps of entries and select

each entry for which the time stamp differs from the time stamp of another entry by less than a predetermined amount (Page 4, Paragraph 71, Lines 10-13).

With regard to claim 14, Muret et al. further disclose that the database-management component is configured to select each entry for which the time stamp differs from the time stamp of another entry by less than 30 minutes (Page 4, Paragraph 71, Lines 10-13).

With regard to claim 15, Muret et al. further disclose that the database-management component is configured to sort the selected entries chronologically to reconstruct the user's clickstream (Page 4, Paragraph 72, Lines 4-5).

(10) Response to Argument

A summary of the various points raised by Applicant is presented below, and each point is addressed individually by the examiner.

Regarding claims 1-15:

a) Appellant argues that the Muret and Tsuchida "fail to suggest the combination of their teachings" (Page 4, Lines 8-9 of Brief).

b) Appellant argues that "there is nothing to suggest that a person of ordinary skill in the art would have had a reasonable expectation of success" in combining Muret and Tsuchida (Page 4, lines 10-12 of Brief).

c) Appellant argues that the arguments in the reply filed 3/21/2005 were in compliance with 37 CFR 1.111(b) (Page 5, Line 16 to Page 6, Line 14 of Brief).

d) Appellant argues that “sessionizing” appears in the rejected claims (Page 6, Lines 15-26 of Brief)

In reply to argument (a) that that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it is clear that the motivation to combine Muret and Tsuchida is to increase the speed at which the web-log data can be “sessionized”, or identifying data corresponding to a particular user session. Muret discloses that the system may be used to sessionize the data for thousands of websites that may each be located across multiple computers (at least Abstract, Lines 8-11), resulting in large amounts of data to sort through. This data may be stored in one or several log files (¶293-295). Tsuchida teaches that the use of plural parallel processing modules will decrease the time required to search a database (Tsuchida, Col 2, Lines 54-58). It is apparent that one of ordinary skill in the art, when faced with searching a very large database, such as the thousands of log files disclosed by Muret, would have been motivated to use a system such as the one disclosed by

Tsuchida in order to search the database using plural parallel processing modules in order to decrease the time required to process all of the session data.

In reply to argument (b) that there would have been no reasonable expectation of success, the Examiner respectfully disagrees. Appellants' basis for this assertion is that "Muret's system uses a very complex, and inevitably slow, sequential program to parse through web-log data, distributing this data across a vast array of tables" and that "The complexity and sequential nature of Muret's control program is clear from the description of the modules that is includes" (Page 4, Line 24 to Page 5, Line 1 of Brief). None of the evidence cited by Appellant discloses or even remotely suggests that the system disclosed by Muret could not be executed across plural processing modules. In fact, a "complex, and inevitably slow" program could benefit tremendously from being executed across plural processing modules, since they would greatly speed up the execution of that program, motivating one of ordinary skill in the art to look for a method to accelerate the program execution.

With regard to Appellant's assertion that "Muret himself describes the control program as on having loops nested within loops" and citation of ¶0057 (Page 5, Lines 4-8 of Brief), it is noted that such a statement does not appear in ¶0057 of Muret. It appears that Appellant may have intended to cite ¶0157, which does contain such a recitation. However, ¶0157 is contained within the section titled "DNS Resolver Module (260)", beginning at ¶0126. This section describes only the operation of a single module of the system disclosed by Muret, and does not in any way suggest that system as a

whole could be executed across plural parallel processing modules. Furthermore, a program containing "loops nested within loops" may still be executed across plural parallel processing modules.

In fact, the plural modules of Muret lend themselves very well to being executed across plural parallel processing modules. By assigning one or more processors to each module (buffer update module of Muret's system, the sessionizing of the web-log data could be accomplished much more quickly.

Appellant has simply failed to provide any substantive evidence that one of ordinary skill in the art would not have had a reasonable expectation of success in combining the features taught by Muret and Tsuchida.

In reply to argument (c) that the arguments in the reply filed 3/21/2005 were in compliance with 37 CFR 1.111(b), the Examiner respectfully disagrees. The rejection of claim 1 was based on the combination of Muret and Tsuchida, and Appellant merely stated what was not explicitly taught by Muret. However, this limitation is taught by Tsuchida and the rejection of that limitation was based on Tsuchida combined with Muret. There was no discussion of *how* the cited language distinguished from the references, since Appellant merely provided an assertion that one reference in a combination did not show a feature which was taught by the combination as a whole.

In reply to argument (d) that "sessionizing" appears in the rejected claims, Appellant argues that "This statement is simply untrue" (Page 6, Line 20 of Brief), and

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then contradicts that statement by agreeing that "it is true that the exact term sessionizing does not appear in the claims" (Page 6, Lines 23-24 of Brief). While it could be reasonably argued that the claims *refer to* "sessionizing" as described in the specification, the claims do not contain such language. The section of the response filed 3/21/2005 being discussed merely stated that "sessionizing" transaction records was "no trivial feat", and went on to describe the execution of SQL commands, to be performed in a particular order to accomplish the "sessionizing" task, (Reply filed 3/21/2005, Page 5, Line 20 to page 6, Line 7) as requiring an advanced level of skill to discover. However, the claims did not and still do not contain any reference to SQL commands, executed in any order. Therefore, the difficulty in discovering such commands is irrelevant to the reasonable expectation of success in combining Muret and Tsuchida to arrive at the *claimed invention*, since they form no part of the claimed invention, which is acknowledged by Appellant (Page 7, Lines 2-5 of Brief).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Aaron Strange

September 21, 2005

Conferees:

MARC D. THOMPSON
MARC THOMPSON
PRIMARY EXAMINER

[Signature]
GLENTON B. BURGESS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100